IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

FRIDAY, THE 15TH DECEMBER 2006 / 24TH AGRAHAYANA 1928

Bail Appl..No. 7226 of 2006()

AGAINST THE JUDGEMENT IN WPC.22084/2006
CRIME NO.57/06 OF KOLLAM EXCISE RANGE.

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PETITIONER(ACCUSED):

MAJEED KUNJU,
AGED 5 YEARS, S/O.HYDROSE KUNJU,
CHIRAYIL PUTHEN VEEDU, NJARACKAL,
PERINADU P.O., KOLLAM.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: (COMPLAINANT & STATE):

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1. INSPECTOR,
EXCISE ENFORCEMENT & ANTI NARCOTIC
SPECIAL SQUAD, KOLLAM.

2. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 15/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

B.A.No. 7226 OF 2006

DATED THIS THE 15TH DAY OF DECEMBER, 2006

O R D E R

Petitioner who is the second accused in Excise Crime No.57/06 of Kollam Excise Range for an offence punishable under section 55(a) of the Abkari Act for allegedly having been found in possession of 385 liters of spirit in a Maruthi car on 8.8.2006 at 10 PM, seeks anticipatory bail.

2. Learned Public Prosecutor opposed the application.

3. The petitioner filed a writ petition as W.P.(C) No.22084/06 alleging that he was falsely implicated in the case. This court as per Annexure-5 order dated 11.9.2006 directed the Assistant Excise Commissioner to conduct an investigation. Even though the learned counsel for the petitioner asserted that no such investigation has been conducted, the learned Public Prosecuted made available to me the investigation report by the Assistant Excise Commissioner, Kollam in which also it is revealed that the petitioner who was in the Maruthi car in question had successfully made good his escape at the time of detection in the

night on 8.8.2006. It is also reported that the petitioner is involved in other abkari offences registered as C.R.Nos.31/01 and 101/05 of Kollam Excise Range and that in yet another abkari case registered as C.R.No.271/01 of Anjalummoodu Police Station, he was convicted and awarded five years imprisonment in S.C.No.711/03.

Anticipatory bail cannot be granted in a case of this nature. I am not satisfied that both the grounds enumerated under section 41A(b)(ii) of the Abkari Act are present in this case so as to justify the grant of anticipatory bail to the petitioner. There is no reason why the petitioner should not surrender before the Magistrate concerned and seek regular bail. Accordingly, if the petitioner surrenders before the Magistrate concerned and files an application for regular bail within two weeks from today, the same shall be considered and disposed of, preferably on the same date on which it is filed.

With this direction, this petition is dismissed.

V.RAMKUMAR, JUDGE

dsn